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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Gary F. Holland
Paul H. Wierenga

Docket: 103003-200

Serial No.: 10/825,076

Art Unit: 3752

Filed: April 15, 2004

Examiner: NGUYEN, Dinh Q.

Assignee: Aerojet-General Corporation

Conf. No. 7149

Title: VEHICLE FIRE EXTINGUISHER

**AMENDED APPEAL BRIEF IN RESPONSE TO A NOTIFICATION OF
NON-COMPLIANT APPEAL BRIEF UNDER §41.37**

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Responsive to the Notification of Non-Compliant Appeal Brief under 37 CFR 41.37 mailed June 22, 2009 having a one-month period to response set to expire on July 22, 2009, Appellants enclose herewith an amended Appeal Brief. A copy of the Notification is enclosed. The amended brief is believed to satisfy the

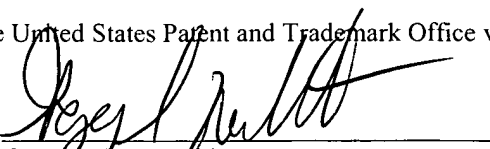
CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence (along with any paper referred to as being attached or enclosed) is being:

- ☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
- ☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office via facsimile at (571) 273-8300.

June 26, 2009

Signed:


Gregory S. Rosenblatt

defects noted by the Patent Appeals Specialist. The Patent Appeals Specialist noted:

c(6) The ground of rejection should list the same rejections as those set forth by the Examiner in the last Office Action.

c(7) The argument section must match the grounds section inasmuch as each ground corresponds to a heading within the argument section.”

The last Office Action, mailed 01/06/2009 set forth three grounds of rejection:

2. Claims 41, 54-56, 61 are rejected under 35 USC 102(b) as being anticipated by *Dille*. (Appellants note that the inclusion of Claim 54 is an error. Claim 54 was cancelled by an amendment submitted October 29, 2008. The Office Action Summary portion of the 01/06/2009 USPTO communication correctly identifies Claim 54 as not pending in the application.)

4. Claims 42-53, 58-60, 64, 65 are rejected under 35 USC 103(a) as being unpatentable over *Dille*.

5. Claims 57, 62, 63 are rejected under 35 USC 103(a) as being unpatentable over *Dille* in view of *Parkinson, et al.*

The Grounds of Rejection Section of the amended Appeal Brief, at page 11, sets forth the same three grounds of rejection:

1. Whether claims 41, 55, 56 and 61 are unpatentable under 35 USC §102(b) as being anticipated by U.S. Patent No. 6,334,490 to *Dille* (“*Dille*”).

2. Whether claims 42-53, 58-60, 64 and 65 are unpatentable under 35 USC §103(a) as obvious in view of *Dille*.

3. Whether Claims 57, 62 and 63 are unpatentable under 35 USC §103(a) as being obvious over *Dille* in view of U.S. Patent No. 5,992,529 to *Parkinson, et al.* (“*Parkinson*”).

The Arguments sections now match the Grounds sections with corresponding headings.

On page 12 of the amended brief: I - Rejection under 35 USC 102(b) over *Dille*.

On page 18 of the amended brief: II - Rejection under 35 USC 103(a) in view of *Dille*.

On page 30 of the amended brief: III - Rejection under 35 USC 103(a) over *Dille* in view of *Parkinson*.”

It is believed that the defect noted by the Patent Appeals Specialist has been corrected and acceptance of the amended Appeal Brief is respectfully solicited.

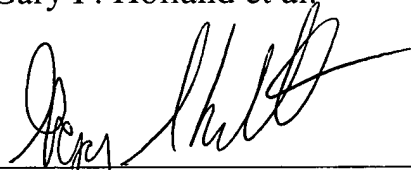
While the Notification advised that “the entire brief is not required, only the sections that were found defective,” the pagination of the amended brief is slightly different than the pagination of the original brief. To avoid confusion, Appellants include an entire amended brief.

Appellants believe that the Amended Brief fully complies with the requirements of 37 CFR 41.37. If the Patent Appeals Specialist or the Examiner

identify a defect that has not been corrected, they are invited to contact Appellants' attorney at the telephone number listed below for prompt correction.

Any fees due with this Appeal Brief may be charged to Deposit Account **23-1665**.

Respectfully submitted,
Gary F. Holland et al,



Gregory S. Rosenblatt
Reg. No. 32,489

Date: June 26, 2009

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**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No. **10/825,076**

Examiner
D. Nguyen

Art Unit
3752

Applicant(s)
HOLLAND ET AL.

Art Unit
3752

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 18 May 2009 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

c(6) The grounds of rejection should list the same rejections as those set forth by the examiner in the last office action.
c(7) The argument section must match the grounds section inasmuch as each grounds corresponds to a heading within the argument section.
The entire brief is not required, only the sections that were found defective..

/Darlene Brown/
Darlene Brown
Patent Appeals Specialist
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